

Bylaw Consideration and Content

By-law Considerations and Content

1. Name and Seal

By-laws generally begin with the name or names of the association and any abbreviations thereof, followed by an imprint of the corporate seal.

2. Head Office

For the purpose of incorporation and by-laws the head office location should be designated as being in an incorporated municipality or township. No street address is required which means that the board of directors may move the office from place to place within the designated location without amending the by-laws.

3. Membership

This by-law should state clearly who is and who is not eligible for membership. In defining those not eligible caution should be exercised to ensure that human rights acts are not violated.

Employees of the association and their spouses are sometimes excluded from membership because of inherent conflict of interest.

Many associations list a large number of "classes" of membership, but in reality there are only two classes voting and non-voting. There may be categories such as honorable and associate within the two main classes.

Normally, membership applications are presumed to be accepted or rejected by the board of directors unless the bylaws provide otherwise.

4. Meetings of Members

The by-laws should include a statement as to the timing of the annual meeting of members and any other requirement for meetings of members between annual meetings. The by-laws should also state who may call a meeting of members, usually the elected president and the board of directors. There should also be a provision for a stated number or percentage of members to be able to demand a meeting should the president and board of directors fail to do so. This is known as minority rights; twenty percent of the members would seem to be a reasonable percent permitted to petition for a meeting.

This section of the by-laws should also state the number of days notice which must be given on the calling of a meeting and the means thereof- usually by mail.

5. Quorum

The bylaws should state the minimum number of members who must be Present in order for a meeting of members to be held. The number should be only as large as can be reasonably expected to attend under any circumstances. A small quorum does not disenfranchise any members.

6. Proxies

The by-laws should clearly state whether members may be represented by proxy and any restrictions thereto, such as that a proxy holder must be a person entitled to attend and vote in his own right. Under some incorporation acts proxies must be permitted at meetings of members.

7. Termination of Membership

The usual reasons for terminating membership are resignation, death and non payment of dues. Other reasons may be bankruptcy, insanity, or leaving the community or profession.

If membership may be terminated because of unethical practices or behaviour bringing discredit to the association, the by-laws must provide for:

- a complaints procedure
- notification to the accused
- the member's right to be heard and represented by counsel
- an appeals process.

In other words, what is generally described as "natural justice."

8. Dues

The by-laws should not state the amount of the annual dues but should state who, board or general membership, has the right to set and change the amount.

9. Board of Directors

(A) Numbers and Term:

The by-laws should state the number of directors, how and when they are nominated and elected and their term of office. It is wise for the by-laws to provide that the immediate past president is automatically a member of the board of directors. This provides the new board with the benefits of

past experience.

(B) Vacancies

Provision should be made for filling vacancies on the board which occur between annual meetings. The recommended wording is, "Vacancies on the Board of Directors, except in that directorship position held by the immediate Past President, may (or shall), as long as a quorum remains in office, be filled by the Board from eligible members of the association.

(C) Eligibility

The by-laws should define any restrictions on eligibility to serve as a director, age, and length of membership are the usual qualifications.

(D) Authority and Responsibility

The by-laws should state that the board of directors is responsible to the membership for the management and conduct of the affairs of the association, and that they:

- elect or appoint officers, elect members of the executive committee and chairpersons of the standing committee
- may appoint and constitute additional committees
- authorize necessary expenditures, and make contracts
- authorize the borrowing of money and banking
- appoint signing officers, employees and/or agents

(E) Board Meetings

The by-laws should include details of:

- how often the board may (or shall) meet
- how notice of meetings is to be given and the timing thereof
- the quorum for meetings of the board, which should not be less than forty percent (40%) of its members
- who may call meetings of the board and the right of a specified minority to petition for a director's meeting

(F) Removal of Directors for Cause

There should be provision that the members may, by a resolution passed by at least two-thirds of the votes cast at a general meeting of which notice specifying the intention to pass such resolution has been given, remove any director from office before the expiration of the term of office, and may by a majority of votes cast at that meeting elect any eligible member to serve the remainder of the term.

(G) Remuneration

A statement that directors shall serve without remuneration, salary or profit from the position of director may be augmented with a provision that directors may be reimbursed for reasonable expenses incurred in the performance of their duties.

(H) indemnity

There may be a general (at all times) indemnification clause in the by-laws or provision that each case for potential indemnification shall be dealt with on an individual basis (from time to time).

10. Officers

(A) Composition

"The officers of the association shall be"_____ " - usually a president, one or more vice presidents, a treasurer and a secretary or a secretary-treasurer.

(B) Vacancies

Statement that the first vice president acts in the temporary absence or inability of the president.

Provision for a board meeting to be called to fill officer positions that become vacant.

(C) Eligibility

If desired, a statement that a member must have served on the board for at least one year prior to election as an officer.

(D) Responsibility of Officers

Brief descriptions of the responsibilities and division of duties among the officers.

(E) Removal of Officers for Cause

Provision that the directors may, by a vote (usually three fourths) at a director's meeting of which notice specifying the intention to hold such a vote has been given, remove any officer for cause before the expiration of his or her term of office.

11. Standing Committees

As in the section of the by-laws pertaining to the board of directors, the by-laws should also specify the composition, filling of vacancies, eligibility, responsibilities, meetings, notice and quorum of the standing committees. The quorum of an executive committee should not be less than a majority.

12. Fiscal Year

Usually stated as, "shall be from _____ to _____"

13. Amendments

Provision for the mechanics of amending the by-laws.

14. Mail Ballots

If the association wishes to conduct voting by mail this should be so stated.

15. Rules of order

Usual wording is, "All meetings of the Association shall be conducted in accordance with _____" naming an authority such as Call to Order or Robert's Rules of Order.

By-laws committees

Most associations have a by-laws committee, others strike one as an ad hoc committee only when they perceive a need for change.

Those associations that have standing by-laws committees are divided as to what their terms of reference should be- Some associations believe that the duty of a by-laws committee is to constantly monitor both the by-laws and the needs of the association in order to recommend amendments if and when they believe them to be necessary.

The other viewpoint is that the role of the by-laws committee is to receive requests for amendments, usually from the board of directors, to ensure that the proposals are legal, and to prepare the necessary amendment motions for consideration by the general membership.

The terms of reference should state how the by-laws committee is to function